HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.667 of 2007

Between:

The Depot Manager, APSRTC,
Jangaon Depot, Warangal District.

... Appellant

And

P. Brahmaiah and another

... Respondents

Counsel for the appellant: Smt. P. Rajani Reddy

Counsel for respondent No.1: None

::JUDGMENT::

July 09, 2007

Per G.S. Singhvi, CJ

Feeling aggrieved by the direction given by the learned Single Judge for reinstatement of respondent No.1 as Cleaner in the services of Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation'), the appellant has filed this appeal under Clause 15 of the Letters Patent.

Respondent No.1 was appointed as Conductor in Jangaon Depot of the Corporation on 28.3.1981. After one month, the checking party of the Corporation found that while on duty on the bus plying on Thorrur to Jangaon route, respondent No.1 was carrying seven passengers without issuing tickets. As a sequel to this, an enquiry was initiated against respondent No.1. The same culminated in his removal from service with effect from 25.11.1981.

After six years, respondent No.1 filed an application under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short, 'the Act') as amended by Andhra Pradesh Act No.32 of 1987. The same was registered as I.D.No.634 of 1987. By an award dated 12.2.1990, the Industrial Tribunal-cum-Labour Court, Warangal (for short, 'the Tribunal') directed re-appointment of respondent No.1 on the post of Cleaner.

Respondent No.1 joined the post of Cleaner offered to him in the month of October, 1991 and then filed E.P.No.20 of 1992 for payment of wages for the intervening period. By an order dated 29.12.1992, the appellant paid him a sum of Rs.15,319.55 ps. for the period from 16.4.1990 to 03.10.1991. This did not satisfy respondent No.1, who filed Writ Petition No.30692 of 1998 for setting aside the award of the Tribunal. By an order dated 10.1.2003, the learned Single Judge dismissed the writ petition. However, that order was recalled in Review WPMP No.32507 of 2003 decided on 15.12.2003. Simultaneously, Writ Petition No.30692 of 1998 was partly allowed and the matter was remanded to the Tribunal for fresh adjudication of the dispute. This time, the Tribunal, vide its award dated 24.9.2004, upheld the action taken by the appellant.

Faced with the prospects of being thrown out of job, respondent No.1 filed Writ Petition No.24884 of 2005. The learned Single Judge

took a sympathetic view and directed that the writ petitioner (respondent No.1 herein) be reinstated as Cleaner on the same terms, which were imposed in the previous award dated 12.2.1990.

Smt.P. Rajini Reddy, after seeking instructions, made a statement that the appellant is prepared to reinstate respondent No.1, but submitted that the Court may modify the direction given by the learned Single Judge so that he i.e. respondent No.1 may not claim back wages for the intervening period.

We have considered the submission of the learned counsel, but have not felt persuaded to accept the same because, as per the appellant's own showing, respondent No.1 was taken back in service as Cleaner with effect from 4.10.1991 and till the passing of award dated 24.9.2004, he continued to work on that post. Therefore, the direction given by the learned Single Judge that the writ petitioner should be reinstated as Cleaner cannot be termed as erroneous.

However, with a view to obviate further litigation between the parties, we clarify that the respondent shall be entitled to be re-appointed as Cleaner only with effect from the date of the order of the learned Single Judge and he shall be entitled to wages only from that date. This would necessarily mean that respondent No.1 shall not be entitled to claim wages for the period between the date of award i.e. 24.9.2004 and the date on which the learned Single Judge decided the writ petition i.e. 02.12.2005.

The appeal is disposed of in the manner indicated above.

G.S. SINGHVI, CJ

July 09, 2007

C.V. NAGARJUNA REDDY, J

svs